



---

## Appeal Decision

Site visit made on 1 February 2022

**by Mr A Spencer-Peet BSc(Hons) PGDip.LP Solicitor (Non Practising)**

**an Inspector appointed by the Secretary of State**

**Decision date: 24 February 2022**

---

**Appeal Ref: APP/X1165/W/21/3282549**

**63 Clifton Road, Paignton, Devon TQ3 3LD**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr Ian Davidson against the decision of Torbay Council.
  - The application Ref P/2021/0557, dated 11 May 2021, was refused by notice dated 2 July 2021.
  - The development proposed is the formation of dwelling with associated landscaping & parking. (Resubmission of P/2021/0036).
- 

### Decision

1. The appeal is dismissed.

### Main Issues

2. The main issues in this appeal are:
  - The effect of the proposed development on the character and appearance of the surrounding area; and,
  - The effect of the proposed development on the living conditions of occupants of 63 Clifton Road with reference to loss of outlook, loss of light, overlooking and loss of privacy.

### Reasons

#### *Character and Appearance*

3. The appeal site comprises a semi-detached bungalow and associated garden amenity area, occupying a corner plot located within a residential area. The site slopes gently downhill from south to north with access onto Clifton Road. The surrounding residential area predominately comprises semi-detached bungalows and two storey dwellings forming long terraces. Due to the sloping topography of the surrounding area, and given its location on a corner plot, the appeal site is visually prominent in views from Clifton Road close to the site.
4. The appeal scheme seeks to construct a detached two storey dwelling within the existing external amenity space at the host dwelling. The design of the proposed dwelling would somewhat replicate the appearance of individual dwellings which form the terraced housing to the east of the site and within Clifton Road, in terms of height, materials and inclusion of a gable and bay window to the front and would be consistent with those neighbouring terraced dwellings with regards to set back from the highway.

5. However, the proposed dwelling would be positioned alongside the host bungalow and the substantial difference in scale, height and materials between the two dwellings would be very apparent. The proposed dwelling would be detached from the terrace of properties located within Clifton Road and would not in my view, appear as a continuation of that terrace by reason of its separation but rather would appear at odds with the prevailing pattern of semi-detached bungalows and long terraces of two storey dwellings in the locality.
6. Whilst I note that the appeal site would reflect the width of plots found at individual dwellings that form the abovementioned terrace, the proposal would significantly reduce the plot size for the host dwelling on a relatively prominent corner and would result in two dwellings of substantially differing designs and scales appearing to be cramped within their individual plots. Thus, the proposed dwelling would stand out as an incongruous addition to the street scene that would be out of step with the pattern of development nearby and which would fail to integrate with the character of the surrounding area. Whilst the harm to the area would not be significant, affecting only its immediate surroundings, the proposal would result in harm to the established character of the area.
7. For the above reasons, the proposed development would harm the character and appearance of the surrounding area. It would therefore conflict with Policy DE1 of the Torbay Local Plan (the Local Plan) and Policy PNP1(c) of the Paignton Neighbourhood Plan which, together and amongst other things, requires that new development is well-designed and relates to the surrounding built environment. For the same reasons, I also find conflict with the design objectives of Section 12 of the National Planning Policy Framework (July 2021) (the Framework).
8. The Appellant has referred to other development which has been allowed at appeal and which the Appellant maintains is comparable to the appeal proposal in terms of acceptance of a variety of designs. The circumstances of the appeal at Miranda Road<sup>1</sup> is well known to me and whilst I acknowledge the Appellant's submissions in this regard, that appeal concerned a site which had neighbours all of which substantially differed in their scale, design and appearance from each other and where variety defined the character of that area. Consequently, the circumstances are not comparable with those which apply in this appeal.

### *Living Conditions*

9. Policy DE3 of the Local Plan seeks to ensure that development provides a good level of amenity for occupants, including provision of useable garden amenity areas, and that proposals do not unduly impact on the amenity of nearby residents with regards to, amongst other matters, outlook, overlooking and privacy, for neighbouring properties.
10. The appeal proposal would subdivide the garden amenity area at the host dwelling. The proposed new dwelling and the host dwelling would be orientated such that, towards the rear of the plot, the respective dwellings would be in very close proximity. Towards the front of the plots, the separation distance between the dwellings would be increased to a limited degree.

---

<sup>1</sup> Appeal Reference: APP/X1165/W/20/3264441

11. In terms of overlooking and loss of privacy for occupants at the host dwelling, it is noted that there would be no openings on the side elevation of the proposed new dwelling and whilst there would be first floor windows to the rear of the proposed dwelling, one of which is proposed to be an obscured bathroom window, the degree of intervisibility and potential for overlooking would not be significantly different to that which already exists in this area between neighbouring properties.
12. Notwithstanding the above, the subdivision of the plot would result in only a very limited amount of useable private external amenity space at the host dwelling. Whilst acknowledging that the dwellings would be of similar overall heights and that it is proposed to remove a side window at the host dwelling, by reason of the close proximity of the dwellings and the extremely constrained nature of the useable external space at the host dwelling, I find that the proposal would have an overbearing effect on the occupiers of the host dwelling, unacceptably overshadowing and dominating the outlook from its extremely constrained garden space and thereby being detrimental to the living conditions of future occupants.
13. For the above reasons, the appeal proposal would conflict with Policy DE3 of the Local Plan which, as described above, seeks to ensure that development be designed such that it does not unduly impact on the amenity of neighbouring uses. Furthermore, the proposal would be at odds with paragraph 130 (f) of the Framework which advises that decisions should ensure that developments provide a high standard of amenity for existing and future users.

### **Other Matters**

14. Interested parties raise additional objections to the proposal on the grounds of highway safety, parking and impact on living conditions of nearby residents. These are important matters and I have considered all the submissions before me. However, given my findings in relation to the main issues above, these are not matters that has been critical to my overall decision.

### **Planning Balance and Conclusion**

15. The main parties agree that the Council cannot currently demonstrate a five year housing land supply. Paragraph 11(d) of the Framework provides that where there are no relevant development plan policies, or the policies most important for determining the application are out-of-date (including housing, where the Local Planning Authority cannot demonstrate a five year supply of deliverable housing sites), permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.
16. Paragraph 62 of the Framework provides support for a mix of differing housing sizes, types and tenures to meet the needs of differing groups of people including those who wish to commission or build their own homes. However, as set out in part 16 of the planning application form, the proposal is for a market-led dwelling and there is nothing before me that would secure the development as a self-build plot.
17. The proposal would contribute towards meeting the housing shortfall and the government's objective in relation to boosting the supply of housing, in an area with good access to services and facilities. Paragraph 69 of the Framework

recognises the contribution that small and medium housing sites make to the housing requirements of an area. There would be some economic benefits associated with the development of the site in terms of employment opportunities during the construction phase and through future occupants spend within local businesses. There would be a boost to the Council through the New Homes Bonus. Cumulatively, I attach limited weight to the above identified benefits of the proposal by reason of the scale of development.

18. The appeal site is located in a built-up area and was previously the garden space for the host dwelling. Consequently, whilst it is noted that the Appellant maintains that substantial weight should be given to use of brownfield land, the site does not meet the definition of brownfield land (or previously developed land) contained within the glossary to the Framework, which excludes residential gardens in built up areas.
19. Against the above benefits, in my view the harm identified in terms of the effect of the proposal on the character and appearance of the area and in relation to unacceptable impact on the living conditions of occupants at the host dwelling, and the conflict with the development plan and national policy is a matter which significantly and demonstrably outweighs the limited benefits of the proposal when assessed against the policies of the Framework as a whole.
20. For the reasons given above I conclude that the appeal should be dismissed.

*Mr A Spencer-Peet*

INSPECTOR